

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2884 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

AMBABEN KHUSALBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR JITENDRA M PATEL for Petitioners
MR U.A. TRIVEDI, AGP for Respondent Nos. 1 & 2
MS SEJAL K MANDAVIA for Respondent No. 3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 29/12/1999

ORAL JUDGEMENT

Rule. Service of rule is waived by AGP Mr. U.
A. Trivedi for respondents nos. 1 and 2 and Ms. Sejal
Mandavia for respondent no. 3. At the request of the
learned advocates, the matter is taken up for final
hearing today.

2. The facts in a nutshell as stated by the learned advocate appearing for the petitioners are as under :-

Petitioners are the owners of land bearing survey No. 229/1 situated at Village : Gadkhol, Taluka : Ankleshwar. The petitioners were formerly the tenants of the land in question and the land in question was granted to them under the provisions of Bombay Tenancy and Agricultural Lands Act. The petitioners want to put up construction in the nature of residential house on the land in question and, therefore, they desire to obtain necessary permission under the provisions of Section 65 of the Bombay Land Revenue Code (hereinafter referred to as 'the code'). The permission is to be given to the petitioners by respondent no. 3. It has been submitted by the learned advocate appearing for the petitioners that the said permission is to be given by respondent no. 3 within the period which might be prescribed by respondent no. 2 from time to time. The petitioners had approached respondent no. 2 i.e. the Collector, Bharuch for extension of time within which the petitioners had to approach respondent no. 3 i.e. the District Development Officer, Bharuch District Panchayat so that necessary permission can be granted by the District Development Officer, Bharuch.

3. It appears that the petitioners could not apply to the District Development Officer within the period prescribed by respondent no. 2, the Collector Bharuch and as the petitioners could not approach in the time prescribed by the collector, the District Development Officer refused to grant the permission under Section 65 of the Code and therefore, the petitioners have approached this Court with a prayer that respondent no. 2, the Collector Bharuch be directed to extend the period within which the petitioners should approach the District Development Officer, Bharuch.

4. Learned AGP Mr. Trivedi has submitted that several extensions were granted to the petitioners and it was for the petitioners to approach the District Development Officer, Bharuch within the period prescribed for obtaining permission under the provisions of Section 65 of the Code. Now, the said period has come to an end by efflux of time and, he has further submitted that the Collector, Bharuch can not extend period beyond 5 years without taking prior permission from the State of Gujarat.

5. It has been submitted by learned AGP Mr. Trivedi that if a fresh application is given by the petitioners

to the Collector, Bharuch, the application shall be scrutinised as soon as possible and the Collector, Bharuch shall take necessary permission from the State of Gujarat, so that time to approach the District Development Officer can be granted and the petitioners can approach the District Development Officer, Bharuch within the time, which might be granted by the Collector.

6. Looking to the facts of the case, it is directed that the petitioners shall make an application to the Collector, Bharuch on or before 31st January, 2000 and after scrutiny of the application, the Collector, Bharuch shall forward the same to the State of Gujarat on or before 15.2.2000 and the State of Gujarat shall scrutinise the same and give necessary instructions to the Collector on or before 15th March, 2000. Upon receipt of the communication from the State of Gujarat, the Collector Bharuch shall pass an appropriate order and shall communicate the same to the petitioners on or before 31st March, 2000. If the time is extended by the Collector after procuring permission from the State of Gujarat, the petitioners shall submit their application to the District Development Officer, Bharuch within one month from the date of the receipt of the communication from the Collector by the petitioners.

7. In view of the above referred directions, the petition stands disposed of as allowed. Direct service permitted. Rule made absolute with no order as to costs.

Date : 29.12.1999. (A. R. Dave, J.)
(PSJ)